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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-fifth session

SUMMARY RECORD OF THE 649th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 22 September 2000, at 10 a.m.

Chairperson: Ms. OUEDRAOGO

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GE.00-44619 (E)

The meeting was called to order at 10.05 a.m.

GENERAL DISCUSSION ON "STATE VIOLENCE AGAINST CHILDREN" (agenda item 5)

1. The CHAIRPERSON on behalf of the Committee, thanked the United Nations High Commissioner for Human Rights, the Special Rapporteur of the Commission on Human Rights on torture and the representative of the Committee against Torture for marking, by their presence at the general discussion, the importance they attached not only to the Committee's work, but to the rights of the child in general.

2. Ten years since the adoption of the Convention, and after nearly a decade of work, the Committee had come to the sad conclusion that violence against children remained a very serious problem. The legislation, policies and programmes in many countries were insufficient to protect children, who were vulnerable to violence even in situations where they should enjoy the most protection. The Committee had decided to convene two days of general discussion in order to identify the causes of the problem and find appropriate solutions. The current general discussion would concentrate on violence against children under the protection of the State.

3. While primary responsibility for protecting children lay with their parents, States, by virtue of their commitments inter alia under the Convention, had the responsibility to protect all children living in their territory. Their responsibility was still greater when parents were unable for various reasons to assume their responsibilities.

4. Violence inflicted during childhood clearly had repercussions even in adulthood. The conclusions of the day's discussion should help break that very dangerous vicious cycle, which devastated the bodies and spirits of children, and ultimately shattered their souls.

5. Ms. ROBINSON (United Nations High Commissioner for Human Rights), noting the very large number of persons in attendance, including many experts on the rights of the child, said that the holding of a general discussion on State violence against children reflected the Committee's dedication to the protection of children's rights.

6. The days of discussions organized by the Committee had been significant and fruitful occasions. The very first discussion had in 1992 been devoted to the involvement of children in armed conflict, and had set off a series of events, studies and measures which had culminated in the adoption in May 2000 of the Optional Protocol on the involvement of children in armed conflict. The work done during the current general discussion could make a real difference by enhancing the commitment of States and of the international community to combating State violence against children.

7. She noted with satisfaction that a member of the Committee against Torture and the Special Rapporteur on torture were taking part in the general discussion. State violence against children should be of concern to all human rights mechanisms and all human rights defenders. It was therefore commendable that the Committee had taken the initiative of addressing the issue jointly with representatives of those and other bodies.

8. The Office of the United Nations High Commissioner for Human Rights (OHCHR) consistently sought to enhance the impact of the treaty bodies' work. The presence of the international children's rights community, including numerous non-governmental organizations, demonstrated the importance attached to the Committee's activities.

9. State violence against children was a matter of serious concern. During her visits to countries such as Russia and Brazil she had seen the urgent need for action to protect children from violent and abusive treatment in care institutions, on the streets and in detention. A lack of resources had never been accepted as a reason to delay full implementation of civil and political rights, and the right to be free from torture or abuse was clearly a fundamental one. When violence was committed against children, the most vulnerable group in society, effective remedies and prevention were of the utmost urgency.

10. Many States which were strongly supportive of high standards for children's rights were unable to fulfil their obligations. During a recent visit to Mongolia, for instance, she had been invited to visit a prison on the outskirts of the capital, where conditions were particularly bad. Far from hiding that fact, the Mongolian authorities were pleading for resources and programmes to assist in improving conditions of detention for minors and others.

11. While it was essential to denounce violations of the human rights of children, the Committee had taken the wise decision to focus the general discussion on identifying examples of best practices most likely to produce improvements. The resulting recommendations would become a source of guidance for States and all those seeking to protect and promote the human rights of the child. In the final analysis, improvements must be brought about through efforts at the local, regional and national levels. OHCHR sought to use its own limited resources to act as a catalyst, helping others to deliver the necessary advice and assistance. Civil society could and must play a crucial role in ensuring observance of international human rights standards.

12. The Committee had rightly pointed out that children were entitled to an environment conducive to development, including physical, mental, spiritual, moral, psychological and social development, in a manner compatible with human dignity. Nothing could be more harmful to the full development of children than violent victimization by those in whom they should be able to place their trust.

13. Mr. DOEK said that because violence against children often defied the human imagination, many people denied the phenomenon altogether. Worse still, others tried to justify it, contending that it was necessary for the treatment of very problematic or uncontrollable children who needed or even "deserved" serious correction. It was important for the participants in the current general discussion to recognize that efforts to curb State violence against children could meet a great deal of resistance, not only because of the reluctance of politicians to be confronted with the problem, but also because of the denial or justification of violence on the part of the public.

14. It was the Committee's hope that the current general discussion would draw up clear and practical recommendations. The numerous written contributions already received provided a strong basis on which to build.

15. A recent study of the emotional and behavioural functioning of African-American children who had been exposed to community violence in the inner city had found that exposure to violence was significantly related to post traumatic stress disorder. For about a third of the children, danger had replaced safety as the organizing principle in their lives. Anyone who associated State or public violence against children exclusively with treatment in institutions or with the plight of street children should read There Are No Children Here, the story of a family in a Chicago housing project.

16. Far too many children were tortured, abused or exploited while in the care of others, and many more were witnessing violence. While violence against children took many forms, the Committee had determined that it would be nearly impossible to define them all. It had also concluded that a single day would not be sufficient to hold a general discussion on all forms of violence against children, and it had therefore decided to devote the discussion day at the current session to State violence, and the discussion day in 2001 to violence in the home and in schools.

17. For practical reasons, the current discussion would distinguish between violence against children in the care of the State and violence in the context of maintenance of law and order. Participants were called upon to follow the Committee's lead in avoiding attempts to define or compare the various forms of violence, even if that meant some overlapping could occur. The objectives of the discussion were to analyse the nature, extent, causes and consequences of the two forms of violence; to examine policies for their prevention and reduction and for the treatment and rehabilitation of their victims; and to formulate recommendations for concrete, effective measures to be taken by the States parties.

18. The personal commitment of each participant gave reason for confidence that the discussion day would be successful. While the problem of violence against children could sometimes defy the human imagination, the participants' imagination could in its turn be put to good use; they must use it to draw up effective recommendations and create hope for children who were victims of State violence.

19. Mr. SILVA HENRIQUES GASPAR (Committee against Torture) said that the purpose of the general discussion on State violence against children was to identify, analyse and explore acts and omissions by State agents which affected children placed for whatever reason under the authority of the State or its bodies. The Convention on the Rights of the Child set high standards for the protection of children. However, some types of protection might be better or more directly afforded by other international human rights instruments.

20. The Convention against Torture offered some important possibilities which could complement various articles of the Convention on the Rights of the Child, especially in respect of conditions of placement in State institutions, forced institutional treatment away from the family environment and many aspects of the juvenile justice process. The Committee against Torture, for its part, should scrutinize the excessive use of detention against minors, conditions of detention of children and the use of force by staff of official institutions, as well as physical and mental mistreatment of children.

21. The Convention against Torture provided two essential references for use in extending the framework for protecting children against State violence: article 1, which contained the only definition of torture in international law, and article 16, under which States were bound to prevent and punish cruel, inhuman and degrading treatment, which meant any act or omission which, as a result of its nature, intensity and circumstances, inflicted physical or mental suffering on a person, or affected the mental condition of the person sustaining it, or caused him or her humiliation, or placed him or her in a humiliating situation. Article 16 could also be applied to extend the protection provided under article 37 of the Convention on the Rights of the Child to children in public care, who were especially vulnerable.

22. Other provisions of the Convention against Torture which constituted additional protection were to be found in articles 10 (training of staff), 12 and 13 (prompt and impartial investigation) and 14 (redress and rehabilitation). Of particular importance was the individual complaints mechanism provided under article 22.

23. Ms. POPA (UNICEF Romania), introducing the sub-theme of mistreatment, abuse and neglect of children in the care of the State, said that three critical principles needed to be made clear. Firstly, the Convention guaranteed to all children, including those under State care, the fundamental rights recognized by its provisions. Secondly, States had a responsibility to care for and protect children denied or deprived of parental care. Lastly, it was most important that children should be institutionalized only as a last resort and as a short-term measure.

24. All inquiries and measures should take the best interests of the child into account, yet despite the fact that the value of placing children in institutions was being called into question everywhere, ever more new institutions were being established around the world.

25. As a matter of basic principle, approaches should be child-centred, the capacities of the family and the community to ensure the realization of children's rights should be strengthened and family and household practices aimed at preventing institutionalization and promoting better child development should be encouraged.

26. Violence, abuse and neglect in State institutions took many forms, ranging from severe physical, sexual or emotional abuse to deprivation, including denial of food, and humiliation, isolation or constant threats. According to a recent survey, children most resented humiliation and sexual abuse. The effects of mistreatment on children included physical injury or stunted development, emotional and behavioural disorders, poor social skills and low self-esteem, which hampered social integration, and loss of contact with their family and community, which increased their vulnerability.

27. Violence could be prevented through legislation on standards of care, greater transparency and accountability, effective monitoring mechanisms and improved research and data. The quality of staff was very important and training should be available. Complaints mechanisms needed to be set up and should operate in such a way as to allow children's voices to be heard. Attitudes among institution staff, communities and families could be changed through education.

28. Measures that could be taken by States to prevent undue reliance on institutional care included developing coherent family policies that empowered families to protect their children; providing alternative forms of care, backed up by adequate financial, material and human resources; and introducing proper judicial oversight, including appeals and periodic review of placements.

29. Mr. RODLEY (Special Rapporteur on torture) said that although there was no evidence that children suffered disproportionately more torture or ill-treatment than adults, it must be recognized that children were more vulnerable to the effects of torture and that it might have a greater impact on them because they were in the critical stages of development.

30. On the specific issue of violence against street children and children alleged to have committed legal offences, he said that in a number of cases, law-enforcement officials had reportedly attacked or encouraged others to attack street children in "social cleansing" operations, and that, in addition to the ill-treatment of juveniles in pre-trial detention, prison or alternative programmes, the issue of corporal punishment should also be considered by the working group.

31. There were conceptual problems pertaining to the definition of "violence against children", and a more detailed study might be necessary. In the meantime, the working group's key objective should be to identify effective measures, policies and best practices in preventing State violence against children, particularly in the areas of alternative sentencing; legislative review; impunity, appropriate remedies and monitoring mechanisms; and sensitization, education and training.

32. In terms of action to be taken at the international level, he said that the creation of an additional mechanism, such as a special rapporteur on violence against children, required careful consideration, particularly if the necessary resources were not to be provided. Given the limited resources available, it might be better to improve the coordination of existing mechanisms, which could no doubt cover all the violations of concern to the Committee. It was also important to identify ways of involving NGOs and civil society at large, both at the national and international levels.

The meeting rose at 11 a.m.